

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

In the Matter of the Application of Orly Genger, as
to Remove Dalia Genger as Trustee of The
Orly Genger 1993 Trust Established on Dec. 13,
1993 by Arie Genger, grantor.

DOCKET NO. 19-cv-9319

Orly Genger, beneficiary of The Orly Genger 1993 Trust,

N.Y. County Surrogate Court
Index No. 2008-0017

Petitioner,

v.

Dalia Genger, as trustee of The Orly Genger 1993
Trust, and The Sagi Genger 1993 Trust,

Respondents.

**RESPONDENT’S STATEMENT PURSUANT TO
FEDERAL RULE OF BANKRUPTCY PROCEDURE 9027(E)(3)**

1. Respondent, Dalia Genger (“Dalia”), by her counsel, in opposition to the Notice of Removal filed by the Bankruptcy Trustee for the bankruptcy estate of Orly Genger, dated October 8, 2019, and pursuant to Federal Rule of Bankruptcy Procedure 9027(e)(3), hereby states that she does not consent to removal to this Court, and does not consent to the entry of final orders or judgment by this Court.
2. Further, Dalia does not consent to the proposed (also by the Bankruptcy Trustee) transfer of this case to the U.S. District Court for the Western District of Texas, nor to the entry of final orders or judgment by such court.
3. In 2008, Orly Genger commenced the underlying proceeding against Dalia for, *inter alia*, removal of Dalia as Trustee of the Orly Genger 1993 Trust and breach of fiduciary duty.
4. In June 2019, Dalia resigned as Trustee of the Trust, and substituted Michael Oldner as the new Trustee.

5. As there may be a dispute over the validity of her resignation and the appointment of the substituted Trustee, *see* ECF Doc. No. 1, Notice of Removal, dated October 9, 2019, fn. 1, Dalia is filing this statement of no consent protectively, in order to preserve the objections of the Trustee to the removal of the underlying proceeding.
6. And to the extent that this Court or the Surrogate's Court considers Dalia or her counsel as still representing the 'office of the trustee' (collectively "Office") of the Orly Trust, the Office, in opposition to the Notice of Removal filed by the Bankruptcy Trustee for the bankruptcy estate of respondent Orly Genger, dated October 9, 2019, and pursuant to Federal Rule of Bankruptcy Procedure 9027(e)(3), does not consent to removal to this Court, and does not consent to the entry of final orders or judgment by this Court and does not consent to the proposed (also by the Bankruptcy Trustee) transfer of this case to the U.S. District Court for the Western District of Texas, nor to the entry of final orders or judgment by such court.
7. Neither Dalia nor the Office is waiving any rights by filing this Rule 9027(e)(3) statement, including but not limited to the right to seek abstention, remand, withdrawal of the reference, or any other claim, right, or action.

Dated: New City, New York
October 15, 2019

/s/
Judith Bachman, Esq.
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on October 16, 2019, the foregoing document was served upon each of the counsel to the parties to the New York Surrogate's Court action, at the last known address set forth below, by (i) depositing one (1) true and correct copy of the same, enclosed in a postpaid, properly addressed wrapper, in an official depository of the United States Postal Service within New York State and (ii) via e-filing the foregoing document with this Court.

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/s/
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